

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AD PRO, INC., : CIVIL ACTION
 :
 v. :
 :
 THE JOURNAL REGISTER COMPANY :
 INDIVIDUALLY AND d/b/a/ THE DAILY :
 LOCAL NEWS : 00-CV-3074

ORDER - MEMORANDUM

AND NOW, this 31st day of July, 2000, the motion of plaintiff Ad Pro, Inc. is granted, and this action is remanded to the Court of Common Pleas of Chester County, Civ. No. 00-4737. 28 U.S.C. § 1447.¹ Given remand, plaintiff's motion for expedited discovery is denied as moot.

Plaintiff Ad Pro, Inc. publishes a newspaper in Southern Chester County. In May of 1999, it began to negotiate the sale of its paper to defendant, the Journal Register Company (JRC). JRC was interested in supplementing its paper, the "Daily Local News," with a Southern Chester County edition. The parties entered into a confidentiality agreement, under which plaintiff gave JRC access to its business documents. Negotiations continued through January of 2000 without reaching an agreement.

On May 1, 2000, JRC started publishing its own Southern Chester County newspaper. Concerned that JRC had violated the confidentiality agreement, plaintiff filed suit in state court. The action did not ask for monetary

¹ On a motion to remand, "all doubts as to the existence of federal jurisdiction must be resolved in favor of remand," and the party who removed the action has the burden of establishing its propriety. Batoff v. State Farm Ins. Co., 977 F.2d 848, 851 (3d Cir. 1992).

or injunctive relief, but only for leave to take depositions to determine if there had been a breach of the confidentiality agreement. JRC removed this action here based upon diversity of citizenship, in response to which plaintiff filed a motion to remand asserting that the amount in controversy was less than the diversity threshold – §75,000.

Absent a specific monetary claim, the “amount in controversy should be measured by the value of the object of the litigation.” Hunt v. Washington State Apple Advertising Comm’n, 432 U.S. 333, 347, 97 S. Ct. 2434, 2443, 53 L. Ed.2d 383 (1977). In analyzing the value, plaintiff’s viewpoint, not that of the defendant, is the proper measurement perspective. In re Corestates Trust Fees Litigation v. Corestates Bank, N.A., 39 F.3d 61, 65 (3d Cir. 1994). When an action is incapable of being quantified as a dollar amount, jurisdiction cannot be predicated on 28 U.S.C. § 1332. See Stoller v. Nissan Motor Corp., 934 F. Supp. 423, 424 (S.D. Fla. 1996).

Here, contrary to defendant’s assertion, plaintiff has not asked for injunctive relief, only for access to information – discovery as to whether the confidentiality order had been abrogated. While the depositions may lead to a specific request for other relief, no request has been made at this time.

Moreover, the 30-day period for removal begins to run once a defendant learns the case is removable. See Foster v. Mut. Fire, Marine & Inland Ins. Co., 986 F.2d 48, 55 (3d Cir. 1993). If a specific request for equitable relief is eventually made, defendant can then consider if removal is appropriate.

Edmund V. Ludwig, J.